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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

TAMMY KIM,

Defendant and Appellant.

B237893

(Los Angeles County  
Super. Ct. No. BA383515)

THE COURT:\*

Defendant and appellant Tammy Kim (defendant) appeals from her conviction of identity theft and possession of a controlled substance, based upon her no contest plea entered after the trial court denied her motion to suppress evidence. Her appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues. On June 22, 2012, we notified defendant of his counsel's brief and gave her leave to file, within 30 days, her own brief or letter stating any grounds or argument she might wish to have considered. After defendant was notified, she submitted a letter brief challenging the sufficiency of the evidence. We have reviewed the entire record and find no merit to defendant's contention. Finding no other arguable issues, we affirm the judgment.

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\* DOI TODD, Acting P. J., ASHMANN-GERST, J., CHAVEZ, J.

Defendant was charged with one count of possession for sale of a controlled substance in violation of Health and Safety Code section 11351, one count of possession of a controlled substance in violation of Health and Safety Code section 11377, subdivision (a), one count of receiving stolen property in violation of Penal Code section 496, subdivision (a), and 13 counts of identity theft with a prior conviction, in violation of Penal Code section 530.5, subdivision (c)(2). The information further alleged that defendant had suffered seven prior drug convictions within the meaning of Health and Safety Code section 11370.2, subdivision (a).

Defendant brought a motion to suppress evidence pursuant to Penal Code section 1538.5, on the ground that the evidence against her was obtained under an invalid search warrant. Defendant alleged that the warrant was not sufficiently specific to permit the officers to search defendant's bedroom, and that the officers exceeded the scope of the warrant by doing so. At the hearing on the motion, Manhattan Beach Detective William Peterson testified that in the course of an identity theft investigation, he discovered that merchandise had been ordered with stolen identities from internet protocol (IP) addresses associated with the addresses 331 and 329 South Rampart Boulevard, and that some merchandise had been sent there. The addresses corresponded to a two-story multi-unit apartment complex with one front entrance and four doors, each marked with a separate address. One door was marked 329 and another was marked 331; the two other doors were marked 329 ½ and 331 ½. Detective Peterson did not see additional entrances and thought that each number represented one apartment. He thus obtained a search warrant for apartment Nos. 331 and 329.<sup>1</sup>

When executing the warrant, Detective Peterson and other officers entered through the door marked 329, which took them directly into defendant's room. It was only after

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<sup>1</sup> A copy of the warrant, a photograph of the back of the building, and a hand-drawn diagram of the building were submitted by defendant, marked for identification, and considered by the trial court. Although the court neglected to admit the exhibits into evidence, it considered them and made them a part of the record which we have reviewed.

breaking through a locked door in defendant's room leading to a hallway that he realized that there were other separately rented rooms, all served by a single bathroom at the end of the hallway, with a separate access to the hallway from the courtyard. None of the other locked doors was numbered or lettered in any way that would lead Detective Peterson to believe that they were separate units. The officers then conducted a safety check of all the bedrooms with the consent of the occupants. Detective Peterson asked the residents if anyone knew Casey Stevens,<sup>2</sup> and defendant said that she did. Detective Petersen then took defendant into her room, which the officers then searched, discovering there all the evidence defendant sought to suppress.

The trial court denied the motion, and defendant entered into a plea agreement, under which she agreed to plead no contest to counts 1, 3, and 4 and to admit having suffered one prior drug conviction within the meaning of Health and Safety Code section 11370.2, subdivision (a), in exchange for a sentence of seven years four months in prison. On November 30, 2011, after the court informed defendant of the consequences of her plea and her constitutional rights, defendant waived her rights and entered a plea according to the terms of the agreement.

The trial court immediately sentenced defendant to a prison term of seven years four months, comprised of the middle term of three years as count 1, eight months (one-third the middle term) as to each of counts 3 and 4, and three years due to the prior drug conviction, all to run consecutively. The court awarded defendant 231 actual days plus 231 good time/work time days, for total presentence custody credits of 462 days. The court imposed a \$4,200 restitution fine; \$120 in court security fees; \$90 in conviction assessments; and a \$50 lab fee, plus assessments. The trial court dismissed the remaining counts and allegations. Defendant filed a timely notice of appeal from the judgment.

As she did in the trial court, defendant relies on *People v. Estrada* (1965) 234 Cal.App.2d 136, which held that a warrant for the search of a multi-unit building must specify either the particular unit to be searched, the name of the person whose apartment

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<sup>2</sup> The search warrant identified Casey Stevens as a suspect and possible resident of 329 South Rampart Boulevard.

is to be searched, or the officers must have had probable cause to search the unit that was entered. (*Id.* at pp. 146-149.) Here, the trial court found that the warrant directed the officers to search apartment No. 329, which appeared to be a separate unit, and there was “nothing objectively to an officer to indicate that there were other individual, quote unquote, residences.” In challenging the sufficiency of the evidence, defendant has supported her contention with a statement of conflicting facts not in evidence and by attaching a hand-drawn diagram that was not before the trial court at the hearing on her suppression motion. Our review is limited to the evidence before the court when it heard the suppression motion. (*People v. Gibbs* (1971) 16 Cal.App.3d 758, 761.)

We conclude that defendant has, by virtue of counsel’s compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against her in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

The judgment is affirmed.

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